

HOUSE BUSINESS COMMITTEE
ADMINISTRATIVE RULES REVIEW
Table of Contents
2008 Legislative Session

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.01 - Rules of Building Safety
Docket No. *07-0301-0701*2

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE
12.01.10 - Rules Pursuant to the Idaho Residential Mortgages Practices Act
Docket No. *12-0110-0701*4

IDAPA 14 - BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS
14.01.01 - Rules of Procedure of the Board of Registration of Professional Geologists
Docket No. *14-0101-0702*12

HOUSE BUSINESS COMMITTEE

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0701

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is **June 19, 2007**.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 39-4107(1) and 39-4109, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Cities enforcing building codes need additional time to incorporate costs into their budgets and to pass appropriate ordinances to enforce the 2006 International Building Codes. This rule promulgation is in response to a petition from the City of Boise requesting rulemaking as well as verbal requests and correspondence received from other municipalities. Rule 07.03.01.004 of the Building Code Board will be amended by a temporary rule allowing local governments until January 1, 2008 to begin enforcement of the 2006 editions of the International Codes.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule change is justified as it confers a benefit upon Idaho cities, counties, building contractors, and homeowners.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 17th day of July, 2007.

Stephen L. Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Boise, Idaho 83720
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HOUSE BUSINESS COMMITTEE

DIVISION OF BUILDING SAFETY
Rules of Building Safety

Docket No. 07-0301-0701
TEMPORARY RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. ADOPTION AND INCORPORATION BY REFERENCE.

01. Building Codes. Under the provisions of Section 39-4109, Idaho Code, the following codes are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or <http://www.iccsafe.org>. ~~(3-30-07)~~(6-19-07)T

~~01a.~~ **International Building Code.** 2006 Edition. (3-30-07)

~~02b.~~ **International Residential Code.** 2006 Edition. (3-30-07)

~~03c.~~ **International Energy Conservation Code.** 2006 Edition. (3-30-07)

02. Exception. Local governments enforcing building codes pursuant to Section 39-4116, Idaho Code, will have until January 1, 2008 in which to begin enforcement of the 2006 editions of the International Codes. (6-19-07)T

HOUSE BUSINESS COMMITTEE

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

**12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL
MORTGAGES PRACTICES ACT**

DOCKET NO. 12-0110-0701

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of this temporary rule is **January 1, 2008**.

AUTHORITY: In compliance with Sections 67-5226, 26-3105(1)(e), and 26-3105(2)(b), Idaho Code, notice is hereby given that the Idaho Department of Finance (Department) has adopted temporary rules. The action is authorized pursuant to Section 26-3105(2)(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting the temporary rules:

In Section 26-3105(2), Idaho Code, the Idaho Legislature determined that a uniform multistate administration of an automated licensing system for mortgage brokers, mortgage lenders, and mortgage loan originators is consistent with both the public interest and the purposes of the Idaho Residential Mortgage Practices Act, chapter 31, title 26, Idaho Code (the Act). In Section 26-3105(2)(b) of the Act, the Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the State of Idaho to participate in a uniform multistate licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director finds that the requirements set forth in the rules to be temporarily adopted as IDAPA 12.01.10.100 and 12.01.10.101 are consistent with the public interest and the purposes of the Act, and that they establish requirements necessary for the State of Idaho to participate in the Nationwide Mortgage Licensing System (NMLS).

The temporary rules also include amendments to existing rules regarding continuing professional education for licensees under the Idaho Residential Mortgage Practices Act, Section 26-3101 et seq., Idaho Code, that establish uniformity with continuing professional education standards of other states; require ethics credits; eliminate an incorrect reference; extend the time to apply to the Department for continuing education credit after course completion; and add a category of approved courses. The Director finds these amendments to existing rules concerning continuing professional education standards for licensees under the Act to be necessary to execute, enforce, and effectuate the purposes of the Act.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), 26-3105(1)(e), and 26-3105(2)(b), Idaho Code, the Governor has found that temporary adoption of the rules is appropriate for the following reasons:

Through the uniform multistate automated licensing system, Idaho mortgage companies will be able to apply for and manage their licenses electronically. The system should reduce industry and Department costs for processing licenses, streamlining and updating the licensing process, reducing fraud, and providing better overall supervision of the mortgage industry as Idaho links with other states to protect consumers, and thus confers a benefit on licensees and Idaho consumers. The NMLS becomes operative on January 2, 2008, at which time Idaho will begin its participation in that system. Adoption of these rules as temporary

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgages Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

rules is necessary to establish requirements necessary for participation in the NMLS by January 2, 2008.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein. N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact: Michael Larsen, Consumer Finance Bureau Chief, Idaho Department of Finance at (208) 332-8000.

DATED this 23RD day of October, 2007.

Gavin M. Gee, Director
Idaho Department of Finance
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Mailing address:
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Boise, Idaho 83720-0031

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

006. DEFINITIONS (RULE 6).

Except where otherwise stated, terms used in these rules which are defined in the Idaho Residential Mortgage Practices Act shall have the same meaning as set forth in that Act. As used in these rules: (3-30-06)

01. Accredited Instruction. Means a course, video, motion picture, sound recording, or dissemination through electronic means of instructional material, which has been approved by the director for continuing professional education credit. (3-30-06)

02. Act. Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)

03. Certificate of Completion. Means written documentation issued by an education provider to a participant, in a manner approved by the director, evidencing the completion of a specific amount of credit hours of accredited instruction. (3-30-06)

04. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee to complete such process. (3-30-06)

05. Credit Hour. Means ~~sixty~~ fifty (50) minutes of accredited instruction attained through actual course attendance ~~of a course~~ or an allotted increment of time of accredited

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgages Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

instruction through independent study, as predetermined by the director. (~~3-30-06~~)(1-1-08)T

- 06. Director.** Means the director of the Idaho Department of Finance. (3-30-06)
- 07. Education Provider.** Means a provider of accredited instruction. (3-30-06)
- 08. Participant.** Means a person who attends accredited instruction for the purpose of accruing credit hours. (3-30-06)
- 09. Real Estate Settlement Procedures Act.** Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 2007. (3-30-07)
- 10. Regulation X.** Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2007. (3-30-07)
- 11. Regulation Z.** Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2007. (3-30-07)
- 12. Reporting Period.** Means a two (2) year period of time commencing on November 1st and ending on October 31st unless otherwise specified by order of the director. (3-30-06)
- 13. Truth in Lending Act.** Means the act set forth in 15 USCA 1601, et seq., as amended to and including January 1, 2007. (3-30-07)

007. -- 009. (RESERVED).

010. REQUIREMENTS FOR CONTINUING PROFESSIONAL EDUCATION (RULE 10).

- 01. Licensee.** For purposes of the “Requirements for Continuing Professional Education” provisions of this rule, the term “licensee” means a person: (3-30-06)
- a.** Who is a loan originator licensed under the Act; or (3-30-06)
- b.** Who is designated pursuant to Section 26-3108, Idaho Code, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act. (3-30-06)
- 02. Minimum Requirements.** (3-30-06)
- a.** A loan originator licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)
- b.** Persons designated in the director’s files, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgage Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

c. Credit hours accrued in excess of the required sixteen (16) credit hours in any reporting period shall not carry over nor be credited to any subsequent reporting period. (3-30-06)

03. Accrual of Credit Hours. (3-30-06)

a. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to the Act and these rules. (3-30-06)

b. For the purpose of accruing credit hours ~~within any reporting period~~ for the reporting period commencing November 1, 2008, and for every reporting period thereafter, a licensee shall attain no less than ~~fourteen two (142)~~ fourteen two (142) credit hours directly related to the following:
~~ethics.~~ ~~(3-30-06)~~ (1-1-08)T

c. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than twelve (12) credit hours related to the following: (1-1-08)T

- i. Basics of home purchase and ownership; (3-30-06)
- ii. The mortgage industry generally; (3-30-06)
- iii. Loan evaluation and documentation; (3-30-06)
- iv. Features of various loan products; (3-30-06)
- v. State and federally required disclosures; (3-30-06)
- vi. Ethical considerations; (3-30-06)
- vii. The Idaho Credit Code; (3-30-06)
- viii. The Idaho Mortgage Company Act; (3-30-06)
- ix. The Idaho Escrow Act; (3-30-06)
- x. ~~The Uniform Commercial Credit Code;~~ The Idaho Residential Mortgage Practices Act. ~~(3-30-06)~~ (1-1-08)T
- xi. Law related to mortgages, deeds of trust, liens, and pledges; (3-30-06)
- xii. Real estate and appraisal law; (3-30-06)
- xiii. Principal and agency law; (3-30-06)
- xiv. Contract law; (3-30-06)
- xv. The Real Estate Settlement Procedures Act; or (3-30-06)

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgages Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

- xvi. Truth in Lending and the federal Consumer Credit Protection Act. (3-30-06)
- c.** Accredited instruction shall be of a minimum duration of one (1) credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill and competence of licensees. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational, or skills pertaining to running a business. (3-30-06)
- d.** A participant who successfully completes a course of accredited instruction may not repeat that course for credit hours with the same education provider within the same reporting period. (3-30-06)
- e.** A participant may accrue credit hours within ninety (90) days prior to initial submission of an application for a loan originator license under the Act. Such credit hours shall not accrue to the participant unless the initial license application is subsequently approved by the director and a license is issued. Credit hours shall not be granted to a participant under this provision unless the participant provides the director with a copy of the certificate of completion for such accredited instruction within sixty (60) days of initial licensure. (3-30-06)
- f.** Persons designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction attended within ninety (90) days prior to the date of approval by the director of such designation. (3-30-06)
- g.** Persons who, as of January 1, 2006, are designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction completed on or after October 1, 2005. (3-30-06)
- 04. Recordkeeping and Reporting of Accrued Credit Hours.** (3-30-06)
- a.** Every licensee shall maintain copies of certificates of completion for a period of no less than three (3) years following completion of the accredited instruction. (3-30-06)
- b.** The initial reporting period for a loan originator licensed under the Act shall commence on November 1st immediately succeeding his initial licensure. (3-30-06)
- c.** The initial reporting period for persons who are not loan originators, but who have been designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall commence: (3-30-06)
- i. On November 1, 2006, if the person has been so designated prior to November 1, 2006; or (3-30-06)
- ii. On November 1st immediately following the director's approval of the person's designation, if the person is so designated on or after November 1, 2006. (3-30-06)
- d.** Within thirty (30) days following the expiration of each reporting period a licensee

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgages Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

shall deliver copies of certificates of completion to the director demonstrating the licensee's completion of the credit hours required under these rules. (3-30-06)

e. A licensee who fails to attain the credit hours required by these rules, or fails to maintain records as required in Section 010 of these rules, or fails to timely report compliance with the credit hour requirements of these rules shall be subject to license revocation or suspension as prescribed in Section 26-3109, Idaho Code. (3-30-06)

f. Upon revocation or suspension of a license issued under the Act for failure to complete or report credit hour requirements, no person shall obtain a new license or a reinstated license in the case of a license suspension, as a loan originator, mortgage broker or mortgage lender without first satisfying the credit hour requirements, which, having been previously incomplete or not reported, were the cause of the license revocation or suspension. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

012. PRESUMPTIVE ACCREDITATION (RULE 12).

01. Instructional Courses Presumptively Accredited. Instructional courses that cover subject matter set forth in Subsection 010.03 of these rules, that are provided by the following listed organizations, or by such other organizations as may be determined by the director, are presumptively accredited and no request for accreditation of an instructional course offered by these organizations is required, unless the director determines otherwise. (3-30-06)

- a.** The Idaho Department of Finance. (3-30-06)
- b.** The National Association of Mortgage Brokers. (3-30-06)
- c.** The Mortgage Bankers Association. (3-30-06)
- d.** The National Association of Professional Mortgage Women. (3-30-06)
- e.** The Idaho Housing and Finance Association. (3-30-06)
- f.** Federal National Mortgage Association. (3-30-06)
- g.** Federal Home Loan Mortgage Corporation. (3-30-06)
- h.** The American Bankers Association. (3-30-06)
- i.** Regulatory agencies of any state or of the United States that have regulatory authority over mortgage related activity. (3-30-06)
- j.** Institutions of higher education accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state. (3-30-06)

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgage Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

- k. The Conference of State Bank Supervisors. (3-30-06)
- l. The American Association of Residential Mortgage Regulators. (3-30-06)
- 02. Acceptance of Credit Hours for Presumptively Accredited Instruction.** Credit hours for presumptively accredited instruction may be credited to participants in the following manner: (3-30-06)
- a. Upon timely submission of a copy of a certificate of completion as set forth in Subsection 010.04 of these rules; or (3-30-06)
- b. By written application by the participant, in a form prescribed by the director, within ~~thirty~~ one hundred eighty (~~3180~~) days of successful course completion. The application shall be accompanied by a non-refundable fee of twenty-five dollars (\$25). ~~(3-30-06)~~(1-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

091. -- 0999. (RESERVED).

100. LEGAL AUTHORITY (RULE 100).

In Section 26-3105(2), Idaho Code, the Idaho Legislature determined that a uniform multistate administration of an automated license system for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of the Residential Mortgage Practices Act, Chapter 31, Title 26, Idaho Code (the Act). In Section 26-3105(2)(b), Idaho Code, the Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate automated licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director finds that the requirements set forth in Sections 100 and 101 of these rules are consistent with the public interest and the purposes of the Act, and therefore promulgates such rules pursuant to Section 26-3105(2)(b), Idaho Code. (1-1-08)T

101. NATIONWIDE MORTGAGE LICENSING SYSTEM (RULE 101).

01. The Nationwide Mortgage Licensing System (NMLS). Internet-based filing depository operated by the State Regulatory Registry, LLC (SRR), a wholly-owned operating subsidiary of the Conference of State Bank Supervisors (CSBS). The NMLS is designed to accept license applications and license renewal applications electronically from mortgage brokers, mortgage lenders, and mortgage loan originators; collect associated statutory filing fees on behalf of participating jurisdictions; and provide the public with Internet-based access to information concerning state-regulated mortgage brokers, mortgage lenders, and mortgage loan originators. The NMLS will begin to accept electronic filings of applications from state-regulated mortgage brokers, mortgage lenders, and mortgage loan originators from various states, including Idaho, on January 2, 2008. (1-1-08)T

HOUSE BUSINESS COMMITTEE

DEPARTMENT OF FINANCE
Idaho Residential Mortgages Practices Act

Docket No. 12-0110-0701
TEMPORARY RULE

02. Reasonable Access to NMLS. Beginning January 2, 2008, all mortgage brokers, mortgage lenders, and mortgage loan originators with reasonable access to NMLS via the Internet who seek a license under the Act, or who wish to retain a license previously issued under the Act, must do so through the NMLS. Applicants for a license or licensees who wish to retain a license under the Act who lack reasonable access to NMLS via the Internet may, upon prior approval of the Director and good cause shown, be excused from participation in the NMLS and may apply for a license or for license renewal through an alternative method designated by the Director.

(1-1-08)T

03. Licensing. Mortgage brokers, mortgage lenders and mortgage loan originators who seek to obtain or retain a license under the Act through the NMLS must pay the charge imposed and retained by NMLS to fund the costs of NMLS associated with an applicant's or licensee's participation in the system.

(1-1-08)T

04. Statutory Fees. NMLS shall collect on the Department's behalf any statutory fees required to be paid to the Department by license applicants and licensees pursuant to the Residential Mortgage Practices Act. NMLS is required to forward to the Department all statutory fees it collects on the Department's behalf pursuant to the terms of a written agreement between the Department and SRR.

(1-1-08)T

102. -- 999. (RESERVED).

HOUSE BUSINESS COMMITTEE

**IDAPA 14 - BOARD OF REGISTRATION OF
PROFESSIONAL GEOLOGISTS**

**14.01.01 - RULES OF PROCEDURE OF THE BOARD OF REGISTRATION
OF PROFESSIONAL GEOLOGISTS**

DOCKET NO. 14-0101-0702

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2007.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-2808, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This rule is necessary to provide the current address, telephone and facsimile numbers, and website of the Board.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule change is necessary to protect the public safety by providing a current address and contact information for the Board.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Tana Cory, Bureau Chief, at (208) 334-3233.

DATED this 25th day of October, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St.
Owyhee Plaza, Ste. 220
Boise, Idaho 83702-5642
(208) 334-3233 phone
(208) 334-3945 fax

HOUSE BUSINESS COMMITTEE

PROFESSIONAL GEOLOGISTS REGISTRATION BOARD Docket No. 14-0101-0702
Board of Registration of Professional Geologists **TEMPORARY RULE**

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

004. —~~009.~~ (RESERVED).

005. OFFICE INFORMATION - OFFICE HOURS.

The office of the Board is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The telephone number of the office is (208) 334-3233. The facsimile number of the office is (208) 334-3945. The email address of the Board is geo@ibol.idaho.gov. The website address of the Board is <http://www.ibol.idaho.gov/geo.htm>.

(11-1-07)T

006. -- 009. (RESERVED).